



HIGH COURT OF CHHATTISGARH: BILASPUR

Writ Petition (S) No. 5094 of 2006

PETITIONER

Mohar Sai, S/o. Late Shri Samal
aged about 52 years, occupation,
service (Loader) R/o. Chowki Dafai
Korea Colliery, Tehsil – Baikuntpur,
Dist. Korea, CG.

Versus

RESPONDENTS

- 1) South Eastern Coalfields Ltd.,
through Managing Director, Seepat
Road, Bilaspur, CG.
- 2) General Manager, Chirmiri Area,
District Korea, CG.
- 3) Sub Area Manager, Rani Atari
Project Chirmiri Area District
Korea, CG.
- 4) The Mines Superintendents Rani
Atari Project Chirmiri Area, Dist.
Korea, CG.

(Writ Petition under Article 226/227 of the Constitution of India)

SB: Hon'ble Mr. Justice Satish K. Agnihotri

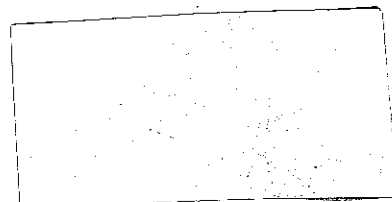
Present: .Shri A.K. Pandey, counsel for the petitioner.
Shri Ravi Ranjan Sinha, counsel for the respondents.

ORDER

(Passed on 5th July, 2007)

With consent of the parties, the matter is heard finally at the admission stage itself.

The petitioner was appointed as Loader on 1-1-1979. In his service book i.e., Form –B (See Rule 48, 51, 77 and 77 A (2) the date of birth recorded as per information submitted by the petitioner was 30-09-1946. Accordingly, the petitioner on attaining the age of superannuation retired from service with effect from 1-10-2006.



2) At the fag end of the service, the petitioner made an application on 19-10-2005, producing a Primary School Certificate (Annexure P/1), issued on 2-9-1996, wherein his date of birth was recorded as 10-4-1954.

3) The respondents in their return dated 20-2-2007 have submitted that the application dated 19.10.2005 was made at the fag end of the service. There is no discrepancy or ambiguity in the recorded date of birth of the petitioner, in various records, maintained in the office of the respondents. The petitioner is not entitled to any relief at this stage, when he has attained the age of superannuation and further, he has received payment of gratuity.

4) A Division Bench of the High Court of Calcutta in the matter of **Puspa Rani Chakrabarty and others and Allahabad Bank and others**,¹ observed at para Nos. 3 and 6 as under:

"3 Since the entries were made in his own hand writing and he served the bank with those entries and did not wake up to correct that date of birth till he attained the age of superannuation, therefore, now he cannot be permitted to turn back at the fag end of his career to challenge the entry in his service record of the date of birth. The view taken by the learned single Judge appears to be correct and there is no ground to interfere in the appeal."

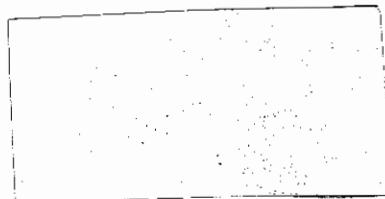
"6. The right to get the date of birth corrected either on the basis of matriculation certificate or otherwise is not a legal right for less a constitutional right."

5) The Supreme Court in the matter of **State of Punjab and others Vs. S.C. Chadha**² observed as under:

"The sole object of such rules being that any such claim regarding correction of the date of birth should not be made or entertained after decades, especially on the eve of superannuation of such public servant."

¹ 2000 (2) LLJ 681

² (2004) 3 SCC 394



6) The Supreme Court in the matter of **U.P. Madhyamik Shiksha Parishad and others Vs. Raj Kumar Agnihotri**³ observed as under:

"It is thus seen from the above quote judgments that this Court has consistently taken the view that correction in entries made in government records on the basis of which the government servant got the service cannot be allowed to be changed just a few years before retirement or at the fag end of his retirement."

7) Applying the above stated principle of law to the facts of the present case, it is admitted that the entry of date of birth of the petitioner in the service record was made by the petitioner as 30-9-1946 when he was appointed on the post of Loader on 1-1- 1979. At the fag end of his career, he made a representation on 16-8-2005 (Annexure P/2) for correction of date of birth on the basis of alleged Primary School Examination Certificate wherein his date of birth was recorded as 10-4-1954. The petitioner has not adduced any evidence to indicate as to what prevented him from raising the issue earlier or at the time of his employment. The petitioner kept waiting till he made a representation about one year before the retirement. The petitioner has not made out a case for interference with a correction of date of birth as recorded in his service book.

8) As a result and for the foregoing reasons, this petition is dismissed. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

Raju

³ (2005) 11 SCC 465